

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

JIMMY DALE HUNSUCKER, JR.

PLAINTIFF

VS.

CIVIL ACTION NO. 3:10CV008-M-A

TIPPAH COUNTY, MISSISSIPPI, et al

DEFENDANTS

DEPOSITION OF BRANDON VANCE

Taken at the instance of the Plaintiff
on Tuesday, March 22, 2011,
in the offices of Christi R. McCoy, McCoy Law Firm
Oxford, Mississippi,
beginning at 9:17 a.m.

(Appearances noted herein.)

REPORTED BY: Desi W. Arnold, CSR 1738

Arnold Court Reporting
1680 Thicket Cove
Belden, Mississippi 38826
(662) 296-6247
(866) 868-3604
darnoldcsr@yahoo.com

ORIGINAL

BRANDON VANCE,

having first been duly sworn, was examined and testified as follows:

EXAMINATION BY MR. MULLINS:

Q. Tell me your name for the record, please.

A. Brandon Vance.

Q. Mr. Vance, I'm Chuck Mullins. You and I met for the first time yesterday. And you were present during the depositions of both Will and Jeff Rogers, correct?

A. Correct.

Q. You've heard my preliminary statements to them regarding depositions.

MR. MULLINS: We're going to have usual stipulations, Counselors, correct?

MR. ALLEN: Yes.

MS. McCOY: Yes.

MR. MULLINS: Brandon is going to read and sign. All objections reserved except to form?

MR. ALLEN: I'm going to ask him at the end of his deposition if he wants the opportunity to read and sign.

BY MR. MULLINS:

Q. Again, obviously, you've got a cough today. If you need to take a break, you've got water in front of you. If you need --

1 insure whether it was in compliance with current law
2 enforcement standards as far as jail is concerned?

3 A. I do not recall that.

4 Q. Did you authorize Ms. Kubish to update the
5 manual in compliance, so it would be in compliance with
6 continuing law enforcement standards regarding jails?

7 A. If she needed to.

8 Q. You authorized her to do that?

9 A. She could, yes.

10 [Q. Did you have a written policy regarding the
11 isolation cell, also known as the hole?

12 A. Not to my knowledge, no, I didn't. They were --
13 if I might, sir, they were -- jailers were certified, and
14 the procedures that were brought forward, that the people
15 had trained in, were modified according to the needs to
16 manage them under the training that the people received --
17 that the jailers received under the direction of the jail
18 administrator.

19 Q. Okay.

20 A. So there were procedures in place.

21 Q. There was nothing written?

22 A. Not to my knowledge. There may have been memos.

23 Q. Okay. You say regarding the hole?

24 A. Not to my knowledge on the hole.

25 Q. Okay. You say the jailers were trained. What

1 training did they receive?

2 A. State certification training.

3 Q. And do you know if the state certification
4 training had any training dealing with the use of
5 isolation cells or the hole, such as the one at Tippah
6 County?

7 A. I'm not familiar with the state certification
8 training. Sharon could advise us on that.

9 Q. Or did you research any laws regarding the use
10 of isolation cells, or the hole, such as the one at Tippah
11 County?

12 A. I did not. I relied on their training as to the
13 use of that and the procedures put in place.

14 Q. Do you know of any constitutional limits on the
15 use of isolation cells such as the one at Tippah County on
16 inmates?

17 A. I'm not aware of any.

18 Q. Are you aware of the length of time a person
19 should be placed in an isolation cell such as the one at
20 Tippah County?

21 A. I'm not aware of any.

22 Q. Again, are you familiar with any limitations on
23 putting a person in the hole without use of a proper
24 bathroom?

25 A. I'm not aware of any. There was a center

1 portion where they could use the bathroom.

2 Q. You say a center portion. That was literally a
3 hole?

4 A. A hole.

5 Q. There was no running water?

6 A. No running water. The jail, of course, was
7 designed to meet the state criteria and the federal
8 criteria, whatever was required.

9 Q. And when you say that they were designed to meet
10 the state criteria or federal criteria, the inspectors,
11 when they came to look at the jail, what were they told
12 were the uses of the hole?

13 A. I don't know. My jail administrator accompanied
14 them through the inspection process.

15 Q. So you don't know what she informed them of, of
16 how long was the person kept in there normally and what
17 conditions, et cetera, et cetera?

18 A. Repeat that, please.

19 Q. Sure. I'm assuming this is Ms. Kubish?

20 A. Correct.

21 Q. You're not aware of what Ms. Kubish informed
22 these inspectors, federal and state inspectors, concerning
23 the hole, how it was used, the duration a person was left
24 in the hole, or anything of that nature?

25 A. I'm not aware of that. We always passed

1 inspection without a problem.

2 Q. Okay. Did you receive any training regarding
3 jails, jail administration, inmate segregation, the use of
4 isolation cells, such as the hole?

5 A. No.

6 Q. Do you know if Ms. Kubish received that type of
7 training?

8 A. I'm not aware of it. She was certified as a
9 jailer and was sent to a national training.

10 Q. Now, regarding the use of the hole, can you tell
11 me what the policy was regarding who would be placed in
12 the hole, how that was made?

13 A. Somewhat, yes. A combative subject, a person
14 who may pose a threat to other inmates or officers, or a
15 suicidal person.

16 Q. And how long was the person, according to
17 policy, supposed to be kept in the hole?

18 A. Typically, as long as needed. I know there was
19 some discussion of maybe 24 hours or as long as necessary
20 to get that person -- if they were under the influence of
21 a drug or posed a threat or combative. And they were seen
22 to during that time, of course, fed and given water and
23 necessary hygiene.

24 Q. And what about the use of shackles on a suspect
25 while in the isolation cell? What was the policy

1 regarding that?

2 A. That was permissible to manage them so they
3 wouldn't be a threat to anyone who may open the door for
4 whatever reason.

5 Q. And how were they supposed to be shackled?

6 A. There was a ring attached to the wall that the
7 chain -- the leg restraints would go through. And each
8 restraint or cuff would be placed on their leg around
9 their ankle.

10 Q. And you heard Mr. Will Rogers' testimony
11 yesterday. And he indicated the shackle chain was about
12 two feet long?

13 A. Thereabouts.

14 Q. Okay. So the person was shackled by both
15 ankles?

16 A. Correct.

17 Q. And, according to Mr. Rogers' testimony, when a
18 person is shackled in this manner, he or she is unable to
19 use that restroom facility in the hole; is that correct?

20 A. Correct.

21 Q. If you have a person who is left in there this
22 24-hour period or longer while shackled, how are they
23 supposed to use the restroom?

24 A. That would be a problem. They weren't shackled
25 for that long, to my knowledge. They would be let loose

1 Q. Right.

2 A. And we discussed that incident.

3 Q. Okay. So that's how this incident came to your
4 attention, correct?

5 A. The incident of him being tased?

6 Q. And shackled for this period of time?

7 A. Yes. Now, let me clarify. The incident,
8 itself, I was made aware the night of the incident --

9 Q. By whom?

10 A. -- later, of course, than the incident. Will.

11 Q. He called you on the phone?

12 A. Yes.

13 Q. He told you about the tasing?

14 A. Yes.

15 Q. And also told you he had put him in the hole?

16 A. Yes.

17 Q. Of course, you had talked to Will prior to him
18 being placed in the hole?

19 A. That's correct.

20 Q. And it was my understanding it was your decision
21 to have Mr. Hunsucker placed in the hole?

22 A. That's correct. May I say something else?

23 Q. Sure.

24 A. You asked me early on about policies for the
25 deputies and use of force, firearms, that kind of thing.

1 Q. Is that a proper use of the hole?

2 A. To leave them there, no. We have -- there was a
3 smock that could be placed on them as well as a mat when
4 they had to be placed in there for the reasons I mentioned
5 earlier.

6 Q. And once a person is placed in the hole, as
7 Mr. Hunsucker was, whose decision is it to take a person
8 out of the hole?

9 A. It could be made on the level of one of the
10 jailers if they called and asked -- if they were unsure
11 about the details of that, they could ask the jail
12 administrator or chief deputy on staff.

13 Q. You're familiar, in this case, that the jailer
14 on duty actually checked with Will Rogers to see if he
15 could let Mr. Hunsucker out of the hole?

16 A. That's correct.

17 Q. And, again, there's no written policy, but is
18 that something that's within the unwritten policy
19 regarding the hole?

20 A. That would be based on the jailers individual
21 call since Will had contact or was the arresting officer
22 in that case.

23 Q. Well, I guess what I'm saying is, Mr. Rogers was
24 not at the jail. After he placed Mr. Hunsucker in the
25 hole, he left the jail, correct?

1 A. Correct.

2 Q. So he was not there throughout the night,
3 correct?

4 A. Correct.

5 Q. He doesn't know how Jimmy Hunsucker was acting?

6 A. Throughout the night, yes, sir. No, not to my
7 knowledge.

8 Q. The jailers would have the best --

9 A. Unless they relayed it to him.

10 Q. Well, the jailers would have the better vantage
11 point of being in the jail and going to check on the
12 inmates of who was doing what, correct?

13 A. Right.

14 Q. I mean, that's their job. That's what they were
15 trained to do?

16 A. Right.

17 Q. So why would this jailer, who has been with
18 Mr. Hunsucker through the night and through the day, why
19 would they have to check with the arresting officer to
20 place Mr. Hunsucker in the cell to see if he could take
21 him out?

22 A. I don't know that they would.

23 Q. If a jailer was told that they had to check with
24 Mr. Rogers before they took Mr. Hunsucker out of the hole,
25 would that be proper or improper?

1 A. It would be their decision who they checked
2 with.

3 Q. But what if their decision was limited to, "Hey,
4 you can't take him out of the hole until you check with
5 Will Rogers"?

6 A. What if their decision was limited to that?

7 Q. Yes, sir.

8 A. It wouldn't be limited to that.

9 Q. Okay.

10 A. You're asking me to --

11 Q. I am.

12 A. A hypothetical question here.

13 Q. I am. I am asking you would it be proper to
14 limit the jailers discretion to only let Jimmy Hunsucker
15 out of the hole if Will Rogers approved?

16 A. No. They could make their own decision about
17 that.

18 Q. So it would be improper in that regard?

19 MR. ALLEN: Object to the form of the
20 question.

21 BY MR. MULLINS:

22 Q. You can answer.

23 A. It could be, yes.

24 Q. You say it could be. In what way would it be
25 proper to say that it was up to Will Rogers whether Jimmy

1 Q. And in that situation, he just actually had to
2 go where he was, correct?

3 A. Correct.

4 Q. And I say "go" -- to use the restroom?

5 A. Sure.

6 Q. And I want to phrase this in a nonlegal manner,
7 but is that proper in the jail setting, to have an inmate
8 confined in that manner?

9 A. Not for that length of time. He needs ability
10 to exercise hygiene.

11 Q. After the leg shackles are taken off
12 Mr. Hunsucker Sunday evening, June 10th, he still was kept
13 in the hole, correct?

14 A. I believe that's correct.

15 Q. In fact, he was not released until Monday
16 morning, June the 11th, 2007?

17 A. Correct.

18 Q. At that time he made bond and was released?

19 A. Correct.

20 Q. And during the entire time that he was in the
21 hole, you were aware that he was not allowed to shower and
22 clean himself?

23 A. After the fact, yes. I was --

24 Q. And I understand --

25 A. I learned these things after -- all of these

1 things.

2 Q. And he had, as we stated before, defecated on
3 himself from the taser, which happened Saturday night,
4 correct?

5 A. Correct.

6 Q. So he was in that condition for Saturday
7 afternoon until Monday morning, correct?

8 A. Correct.

9 Q. Now, again, is that proper policy and procedure
10 with regards to the jail at Tippah County?

11 A. No.

12 Q. And that's what you learned in your
13 investigation?

14 A. Right.

15 Q. Now, as a result of your investigation and
16 determining after the fact that these things occurred,
17 what did you do, if anything, regarding the punishment of
18 any employees?

19 A. I didn't punish any of them.

20 Q. And did you reprimand any employee in any way?

21 A. I can't recall exactly what was said, but that
22 was not appropriate. Relayed it to them that didn't need
23 to happen.

24 Q. Did you do a written reprimand?

25 A. I didn't.

1 Q. Who did you reprimand?

2 A. I don't recall. I talked to all of them, and I
3 don't recall.

4 Q. And just to make clear, you just did a written
5 statement to them saying, "Hey, don't do this any more"?

6 A. I didn't write anything to them.

7 Q. I'm sorry. I said written. I meant oral
8 statement, correct?

9 A. Basically, yes.

10 Q. Did you --

11 A. I don't recall exactly what I said to them.

12 Q. And you don't recall -- I'm sorry for
13 interrupting. And you don't recall exactly who you said
14 it to?

15 A. I don't.

16 Q. Did you institute any written policies regarding
17 the hole after that fact?

18 A. Yes.

19 THE WITNESS: A memo.

20 MR. ALLEN: I'm not sure what you're
21 referring to.

22 BY MR. MULLINS:

23 Q. What are you talking about?

24 A. Well, I told them that anybody -- and I'm doing
25 this from memory, now.

1 Q. Sure. You got a written memo that you sent to
2 the jailers after the fact?

3 A. Yeah. Yeah. I believe I do.

4 Q. Let me ask you this: And I'm not saying Jeff
5 didn't produced this to me because we've got a lot of
6 paperwork, as you can see, but when you get back to the
7 office and put your hands on it, could you please give
8 that to Jeff so he can give it to me?

9 A. Yeah.

10 Q. Now, going by memory, and not going to hold you
11 to it, generally, what did the memo say?

12 A. It established about the person being placed in
13 the smock as they should be when they're nude after
14 they're calmed down or they no longer pose a threat.
15 Placed in the smock and any shackling or leg restraints
16 need to be -- I need to be notified or Roy, being the
17 chief deputy, needed to be notified, and maybe Sharon. I
18 don't remember verbatim.

19 Q. Was there a time limit in the memo?

20 A. I don't recall.

21 Q. Was there anything related to hygiene in the
22 memo?

23 A. I don't recall.

24 Q. Now, let me ask you a question: What is the
25 purpose --

1 A. May I?

2 Q. Sure.

3 A. The person being managed in isolation, in the
4 hole, was under the supervision of the jailers, and they
5 made determinations either alone or among themselves or
6 through the jail administrator consultation as to how to
7 manage them. And I let the administrator manage those
8 people. And if there was a problem, they could come to
9 me.

10 Q. Well, and I appreciate that, but you understand
11 that from doing this for four years as sheriff, that when
12 you don't have a written policy, you leave a lot of
13 discretion to jailers?

14 A. I understand.

15 Q. And some of the jailers are not the most
16 educated people in the world. And I don't know your
17 jailers personally. I'm making a generalization. You
18 understand what I'm talking about?

19 A. I do.

20 Q. And when you don't have a written policy
21 advising these folks, you leave, sometimes, too much
22 discretion as to what to do and what not to do. Do you
23 agree with me?

24 A. I do.

25 Q. And do you agree that having a written policy is

1 a better and more effective manner on dealing with
2 situations such as the use of an isolation cell?

3 A. Correct.

4 Q. There's no gray areas, and it's black and white
5 as to what to do and what not to do?

6 A. Correct.

7 Q. And that's exactly why you sent the memo out
8 after the fact, after the Jimmy Hunsucker incident,
9 correct?

10 A. Right.

11 Q. And -- yes, sir.

12 A. I was not consulted during the time of his stay
13 there. And neither was the chief deputy to my knowledge.

14 Q. And, again, that is why you put in the memo,
15 "contact us," correct?

16 A. Yes.

17 Q. But in Mr. Hunsucker's case, you were the one
18 who authorized him to be placed in the isolation cell?

19 A. Right.

20 Q. And from Saturday until he was released, did you
21 ever come by the jail to check on Mr. Hunsucker?

22 A. No, I was not in town.

23 Q. Did you ever call anyone to check on
24 Mr. Hunsucker?

25 A. No.

1 Q. Did you ever make any efforts to check on
2 Mr. Hunsucker or see if he was released from the isolation
3 cell?

4 A. No.

5 Q. Now, getting back -- yes, sir.

6 A. As other times in the past, other people that
7 were placed in there, left it to the jailers, jail
8 administrator, to make those determinations. There were
9 procedures and routines that were normally carried out
10 when those persons had to be managed like that.

11 Q. And you will agree with me that based upon what
12 we've seen with Mr. Hunsucker, some of the jailers that
13 were on duty that night were not aware of how to handle
14 the situation?

15 A. Obviously not.

16 Q. And they needed some type of training or policy
17 to direct them as to what to do when someone was placed in
18 the hole, you agree with that?

19 A. Yes.

20 Q. And that's obvious now to you, and that's why
21 you did the memorandum?

22 A. That's correct.

23 Q. I've got several versions -- and I say several,
24 I've got two versions of a taser policy. I don't want to
25 confuse this. All right. So I'm going to try to do the

1 Q. Download data?

2 A. Download data. Needed to be downloaded.

3 Q. Yes, sir.

4 A. And that's just a general idea of me getting it
5 done after we -- I mean, we should have had that done
6 beforehand. I didn't think about it.

7 Q. And why did you think it was necessary to put
8 that policy in place regarding the download data?

9 A. I didn't realized you could do it until someone
10 told me.

11 Q. Okay.

12 A. If I knew about it before, I just didn't think
13 about it anymore.

14 Q. Who told you?

15 A. Maybe Will told me about it, that it could be
16 done.

17 Q. Now, there was another policy regarding the
18 taser that we talked about yesterday, and it was a sign
19 that you placed in the jail itself?

20 A. Uh-huh.

21 Q. Yes?

22 A. Yes, sir. Sorry.

23 Q. That's okay. That's okay. Can you tell me what
24 the sign said exactly?

25 A. I don't think I can exactly remember it.

1 Q. All right.

2 A. If you resist -- if you're resisting, you will
3 be tased to stop resisting.

4 Q. Did any other instruction regarding use of the
5 taser in the jail accompany that sign, or was it just that
6 sign?

7 A. It was that sign based on the officers summary
8 of use of force continuum.

9 Q. Well, let's look at Exhibit 5, which was in
10 place. Was there anything in the policy which existed
11 when Mr. Hunsucker was brought in regarding the use of the
12 taser on someone who was in jail?

13 A. No, it was the same policy that covered the use
14 of the taser.

15 Q. So there was no written policy regarding the use
16 of the taser in the jail, correct?

17 A. No, just policy right here.

18 Q. And you agree with me that when a person is out
19 on the street in a car or out here on the square in
20 Oxford, it is a different situation than when that person
21 is incarcerated in a jail cell?

22 A. The threat to an officer or another person is
23 the same.

24 Q. You would agree with me that when a person is in
25 a jail cell, they do not have a weapon?

1 A. That is correct except for their body and hands
2 and feet.

3 Q. Exactly. Whereas when they're out on the
4 street, they could have access to who knows what?

5 A. That's correct.

6 Q. And they are capable of fleeing the officer in a
7 car or on foot and escaping?

8 A. Correct.

9 Q. Whereas in a jail, the person is already
10 incarcerated. He has several officers in the jail cell
11 and has also got several locked doors as well, correct?

12 A. Correct.

13 Q. And I guess the threat of escape is very
14 minimal?

15 A. Correct.

16 Q. And, again, a person could also be actually
17 locked behind the cell or in an isolation cell as well --
18 and I'm going with my comparison to someone on the street,
19 that this person in jail is already restrained behind a
20 cell?

21 A. Correct.

22 Q. Was there any guidance to either the jailers or
23 the deputies as to when a taser could be used on someone
24 who was in a cell or an isolation cell?

25 A. It related to this policy, the taser use policy

1 based on the use of force continuum.

2 Q. Did you finish your answer?

3 A. Yes.

4 Q. But, again, there was nothing specifically in
5 there regarding when or under what circumstances a deputy
6 could used a taser on someone who was in a cell or an
7 isolation cell?

8 A. In the taser policy?

9 Q. Yes, sir, in the taser policy?

10 A. Just encompassed use of force related to the use
11 of force continuum.

12 Q. Were there ever any discussions prior to
13 Mr. Hunsucker's arrest regarding the use of a taser in the
14 jail?

15 A. No.

16 Q. Any memos?

17 A. No, none that I recall.

18 Q. Do you agree with me that a sign on the wall, in
19 this case, regarding tasers, could allow a little too much
20 discretion for an officer to use a taser?

21 A. Repeat that. I heard you, but I'm --

22 Q. Sure. I understand. A lot of times when people
23 actually ask someone to repeat a question, that's what
24 they're doing. They're thinking of an answer.

25 A. Uh-huh.

1 Q. The sign on the wall that you had posted, do you
2 agree with me that that could leave a little too much
3 discretion to a deputy as to when and under what
4 circumstances to use a taser on someone in jail?

5 A. The officer has been trained at what level to
6 use a taser, what level of force on the level of force
7 continuum to use the taser. And that's what they're
8 trained to do with regard to the sign.

9 Q. All right. So the answer to my question then
10 would be it doesn't leave any discretion?

11 A. I think the officer uses discretion based on the
12 summary of his training based upon the use of force
13 continuum.

14 Q. We had talked about written policies before as
15 it relates to the hole. Do you agree with me that you
16 think we should have policies --

17 A. Correct.

18 Q. -- to make it clear as to what the rules were
19 with regards to putting a person in the hole? Do you
20 remember that?

21 A. I do.

22 Q. And you agree with me, I hope, that it should be
23 necessary to have written policies regarding when you can
24 use a taser on someone that's in jail already locked up?
25 You agree with me?

1 A. The taser policy covers that.

2 Q. And I don't want to get contrary with you, but
3 would you agree with me that there's nothing in that
4 policy regarding someone who is already incarcerated in
5 jail?

6 A. There's nothing related to that in that taser
7 policy.

8 Q. So it would allow a jailer or deputy to utilize
9 the same policy regardless of whether that person is out
10 on the street or in the jail?

11 A. That's correct.

12 Q. And you understand you and I talked about the
13 differences between someone who is out on the street being
14 confronted by a police officer and someone who is in jail
15 confronted by a police officer?

16 A. That's correct.

17 Q. And yet there were no policies when you were at
18 Tippah County regarding the use of tasers specifically on
19 someone who is incarcerated in jail, correct?

20 A. That's correct.

21 MR. ALLEN: Let me just object because you
22 keep asking that same question over and over, and
23 he keeps answering this policy applied to someone
24 in the jail. I mean, for the record, it doesn't
25 state, "This is only for somebody on the street."

1 what was going to happen -- or what happened, and then
2 call in if anybody else needed to be called in, the MBI or
3 AG's office or something like that.

4 Q. Would you investigate that in-house?

5 A. A major complaint such as that?

6 Q. Yes.

7 A. No.

8 Q. Well, in the situation --

9 A. I wouldn't --

10 Q. Go ahead.

11 A. You know, something that significant that you
12 mentioned, I'd want someone else to look into it.

13 Q. All right. Now, in the situation with
14 Mr. Hunsucker, you did conduct an investigation, correct?

15 A. Just an inquiry.

16 Q. Okay. Is that different from an investigation
17 in your mind?

18 A. Well, I call it an inquiry. I asked about it
19 and got statements from them so I'd know what happened.

20 Q. And you have, as the policymaker, the choice
21 whether to discipline the officers or the jailers that
22 were involved, correct?

23 A. Correct.

24 Q. Right?

25 A. Right.

1 Q. And at the end of your investigation, what, if
2 any, discipline did you impose on anybody with regards to
3 Mr. Hunsucker's tasing?

4 A. Nothing significant that I recall other than
5 just talking to them and finding out, as I mentioned
6 earlier.

7 Q. Did you condone the use of the taser on
8 Mr. Hunsucker?

9 A. At the level at which they were experiencing
10 assault, based on the taser policy, and the level of what
11 I knew -- I wasn't there --

12 Q. Yes, sir.

13 A. -- obviously. And I only learned about it after
14 the fact through the reports that I got. And based on his
15 level of resistance, that would be permissible. That
16 choice would be permissible.

17 Q. So you did condone the taser usage on
18 Mr. Hunsucker?

19 A. At that level of resistance, based on that --

20 Q. And you still feel that way today?

21 A. They made a choice.

22 Q. I understand. And you can explain as much as
23 you want. But just try to answer yes or no to my
24 questions first --

25 MR. ALLEN: He doesn't have to answer yes or

1 as they struggled with Hunsucker. She noticed that there
2 was a struggle occurring in the hole, but did not recall
3 ever seeing Hunsucker stand facing either deputy in an
4 aggressive posture." And I bracketed that on page three
5 going on to page four. I'll let you read that.

6 A. (Witness complies.)

7 Q. Did I read that correctly?

8 A. You did.

9 Q. All right. Do you know Natalie Bibb,
10 personally?

11 A. I do.

12 Q. Good employee of yours?

13 A. Yes.

14 Q. Any reason that you would know that she would
15 have to make up anything that wasn't true?

16 A. No, not to my knowledge unless she didn't see
17 what was going on. She said she saw it, but --

18 Q. Okay. All right. Now, in Hunsucker's case, we
19 know that Jeff Rogers did not complete a use of force
20 report timely in accordance with the policy, correct?

21 A. Correct.

22 Q. We also know that the AFIDs were not collected
23 by Will Rogers, correct?

24 A. Correct.

25 Q. According to Will, they were collected but not

1 logged into evidence?

2 A. Right.

3 Q. And that's a violation of the policies and
4 procedures, correct?

5 A. According to the policy -- taser policy. Right.

6 Q. There were no photos taken of Mr. Hunsucker, his
7 injuries?

8 A. Not to my knowledge, no.

9 Q. But yet there was no discipline to either
10 officer for violating this policy in any way?

11 A. At that time, the FBI came in, and I held off.
12 I held off on most everything as far as an in depth
13 investigation goes. And those AFIDs that you're talking
14 about.

15 Q. Yes, sir.

16 A. Back there in the hole, they're difficult to
17 collect. And if they didn't collect them, my main concern
18 was with respect to the policy, proper use of the device.
19 And this was a model policy here, and I probably should
20 have changed that because the AFIDs are difficult to
21 collect all of them. But, yes, you asked was there a
22 violation. Yes. And did I discipline them for that? No,
23 I didn't.

24 Q. Thank you. When you have any officer including
25 yourself --

1 drug or alcohol inducement. It's a condition, correct?

2 A. I don't know. I'm not a psychiatrist or
3 psychologist.

4 Q. Well, you know it's something that they can't
5 control? Do you agree with me?

6 A. It could be. There's different levels of mental
7 illness, I'm sure.

8 Q. And are you aware of different uses of force
9 with regards to law enforcement different uses of force
10 that are used for people who are mentally ill?

11 A. I'm not aware of any.

12 Q. Did you do any research on -- be it with Taser
13 International or other literature regarding tasers,
14 regarding the use of tasers on people who are mentally
15 ill?

16 A. No, not that I recall, just if that person posed
17 a threat to himself, to an officer, or to others, the
18 taser could be used. Doesn't have a lasting effect on
19 them and allows the officer to take control of the
20 threatening subject.

21 Q. Now, in the reports that I have -- and I'm going
22 to show you the ones that I have for you. And we're going
23 to get them marked individually. I've got three use of
24 force reports for you. One on a Seth Dore, D-O-R-E,
25 correct?

1 A. Correct.

2 Q. One -- well, actually it's two on a Robert
3 Duren, D-U-R-E-N.

4 A. Right.

5 Q. And they were both on the same day?

6 A. Correct.

7 Q. Apparently you had to tase him twice on the same
8 day?

9 A. Right.

10 Q. Separate instances?

11 A. Correct.

12 Q. And I'm going to show you what appears to be
13 your reports on those three cases, the use of force report
14 and the accompanying incident report and the downloads.
15 And they're stapled together. Just look at that and make
16 sure the reports are yours.

17 (Off the record.)

18 MR. MULLINS: Okay. Let's go ahead and get
19 these marked. I'm going to get Mr. Seth Dore
20 marked as Exhibit 8.

21 (Exhibit 8 marked for identification and
22 attached hereto.)

23 BY MR. MULLINS:

24 Q. The first Duren incident, which happened at 1045
25 hours -- no wait, that's the second one. The first one

1 was 1700 hours marked as Exhibit 9.

2 A. Wait. Are you sure?

3 Q. No. Okay. 1045 probably is --

4 A. I think we had to -- the incident earlier and
5 then the 1745 was later.

6 Q. Okay. So the 1045 was 1045. Yeah.

7 MR. MULLINS: So this is Exhibit 9. I'm
8 sorry.

9 (Exhibit 9 marked for identification and
10 attached hereto.)

11 MR. MULLINS: And then that's going to be
12 Exhibit 10, and that's the 1700 one.

13 (Exhibit 10 marked for identification and
14 attached hereto.)

15 BY MR. MULLINS:

16 Q. Okay. All right. I'm going to start with
17 Mr. Dore, D-O-R-E. He was in the jail on chancery -- it
18 says charges, "chancery." What is that?

19 A. Chancery writ, mental subject lunacy, awaiting
20 for evaluation or something like that.

21 Q. And that was his only charge?

22 A. I don't recall if the deputies -- seems like
23 they got a call on him down at the children's home. And
24 he ran off, and seemed like he was unstable maybe on a
25 substance or something like that.

1 Q. Can you tell me where he was when you used the
2 taser on him?

3 A. Isolation cell.

4 Q. And was he chained up?

5 A. The front. No, there was an isolation cell in
6 the booking area.

7 Q. Different one from the one Jimmy was in?

8 A. It had all of the amenities that the other cells
9 had, that the isolation in the back did not have.

10 Q. When you said amenities, that -- it had a
11 toilet?

12 A. Yes.

13 Q. Sink?

14 A. Yes.

15 Q. So he was in this isolation cell, and he was
16 acting up, for lack of a better word, in the isolation
17 cell?

18 A. Well, he was -- I can't remember exactly what I
19 wrote right there. May not be legible to you. This guy
20 here was making a lot of noise. I went back to see -- I
21 could hear him outside. I came to work, and I could hear
22 him outside. This is at 8:00 in the morning, thereabouts,
23 8:15. I could hear him from the front as I was coming in.
24 I went back to see what was going on. And he was in the
25 cell ranting and raving and stripping the blanket. He

1 was -- had flooded the cell, urine. We had had someone in
2 the past try to hang themselves or hang themselves in that
3 cell.

4 And so I opened the door to try to communicate
5 with Seth to get him to quit because I didn't want him to
6 start trying to hang himself by stripping the sheets. And
7 he was -- didn't seem to be in control of himself. And so
8 I used hard empty hand control when I tried to talk to him
9 and calm him down, and he swatted at my arm -- swatted at
10 my hand.

11 And at that point I -- yeah, he struck my left
12 arm and then he tried to grab me and I struck him with
13 what's known as a brachial stun, a stun technique, to the
14 left side of his brachial plexus area. His knees buckled,
15 then he rushed me, and I struck him, knee to the
16 midsection, solar plexus, and he fell to his knees, and I
17 grabbed him and wrestled him to the floor.

18 And this wrestling went on for some time and the
19 urine and the water. And he had me around the collar and
20 kind of on the side, face down on the side -- had me
21 around the collar, and he wouldn't let go. I tried the
22 pleasure point techniques to no avail, and he was just --
23 he was trying to get up. And I was holding him down. And
24 I was getting tired. And I asked someone to get a taser,
25 something, I needed some help. I was getting tired.

1 (Off the record.)

2 A. And as I recall, Roy, the chief deputy -- yeah,
3 it's his taser. He came with a taser. And I can't
4 remember if he fired that thing and missed or one probe
5 struck. But I remember him about to fire that thing, and
6 I thought, oh, boy, you know, I'm going to get it, too.

7 And I just remember telling him to hand me the
8 taser. And I showed it to the guy and I said,
9 "Son, let me go. Let me go," something like that, "or I'm
10 going to shock you." And he wouldn't let go, and so I
11 crackled the thing and stuck it there and then pulled it
12 off, just a couple seconds maybe. And then, you know,
13 tried to get him to let me go again. And I stuck it there
14 a couple seconds because it's a pain compliance, and my
15 other pain compliance techniques had not worked. So
16 that's the gist of that. That's what took place. I was
17 trying to protect him from hurting himself.

18 BY MR. MULLINS:

19 Q. Have you ever been tased before?

20 A. No.

21 Q. With regards to the situation you've just
22 described, you tased Mr. Dore twice?

23 A. I drive stunned him.

24 Q. Drive stunned.

25 A. Touched him with the shocking portion.

1 Q. Have you ever had any training on arresting and
2 handling mentally ill suspects?

3 A. Just what I received at the academy, just
4 regular arresting techniques. I have done that before --

5 Q. I understand regular --

6 A. -- from experience.

7 Q. I understand regular arresting techniques, but
8 my specific question is: Have you had training on
9 handling mentally ill suspects?

10 A. Not specific training.

11 Q. Okay. Are you aware in reading -- well, let me
12 ask you a question here. We have to keep up with our
13 legal reading, and we read Mississippi Bar magazines and
14 AVA and various other defense and plaintiff magazines on
15 cases that come down. Did you ever subscribe to any
16 similar publications for law enforcement officers, such as
17 International Association of Chiefs?

18 A. I don't recall. Occasionally, we would get a
19 bulletin, an FBI bulletin or something like that that I
20 would look through.

21 Q. And in your law enforcement career, are you
22 aware of different standards for arresting folks who are
23 mentally ill?

24 A. Not that I recall.

25 Q. Okay.

1 A. Not that I know of.

2 Q. Fair enough. But just to be clear, Mr. Dore was
3 in an isolation cell, the one up front, when he was --
4 when you opened the door when this all began, correct?

5 A. Right.

6 Q. Now, I'm going to hand back Exhibit 8. Looking
7 at the taser download that was done on this case, can you
8 show me Mr. Dore's -- underline it and bracket it.

9 A. Hang on just a minute. I don't reckon I see it
10 here.

11 Q. Well, I didn't either.

12 A. I don't know if it's the wrong paper or put the
13 wrong one with it or what. Now, some of the other ones
14 were -- let's see here. Some of the other ones were wrong
15 in the past. I think y'all alluded to it yesterday.

16 Q. Dates and times?

17 A. Yeah. I don't know if this is that case or not.
18 I don't know. If I have some more downloads, maybe we can
19 put the two together.

20 Q. Well, I just wanted to make sure because I did
21 not see a 5/29/2007.

22 A. Yeah. I don't see it right there.

23 Q. All right. And the taser that was used was Roy
24 Shapley?

25 A. Yes, I believe so. Yeah.

1 Q. Well, it has Mr. Shapley's name on it.

2 A. Right. That's --

3 Q. And let me ask you something. What I've asked
4 for is all of the use of force reports regarding the
5 taser. And I've gone over Will's with him, and I'm
6 getting ready to go over yours. Jeff said he had never
7 used it before. And I think they alluded to the fact that
8 there were possibly two others. Mr. Shapley's taser,
9 specifically, there are several dates where it appears to
10 me that the taser was used. Not a spark test but several
11 second durations. And I want you to look at it and just
12 scan through those different days.

13 A. I see that.

14 Q. Five second, ten second. There's several
15 entries, correct?

16 A. That's correct.

17 Q. Are you familiar with why the taser appears to
18 have been used?

19 A. No, I'm not, unless it was used in training
20 exercises. I don't know.

21 Q. You know, and I don't know. I'm just asking
22 you. Policy and procedure dictates that when it is used
23 on a person, that the use of force report is supposed to
24 be filed, correct?

25 A. Yes.

1 Q. Are you aware of Mr. Shapley ever using the
2 taser on anyone?

3 A. Yes.

4 Q. Okay. Who has he used the taser on?

5 A. The only person I can recall is a fellow by the
6 name of Jarome Jehvan.

7 Q. How do you spell Jehvan if you know? J-A-V-O-N,
8 perhaps?

9 A. J-E-H-V-A-N maybe.

10 Q. And where did that tasering take place, if you
11 know?

12 A. Out in an apartment area.

13 Q. And was a use of force report completed?

14 A. I don't know.

15 Q. Was it during your tenure?

16 A. Yes. I think those things were sometimes put in
17 my box and sometimes Ms. Betty got them and filed them.

18 Q. All right. Exhibit 9 is the first Robert Blair
19 Duren taser. And, again, it appears that he was in jail
20 on lunacy writ again?

21 A. Right.

22 Q. And he had been there since 8/10 of '07,
23 according to your handwritten notes?

24 A. Uh-huh.

25 Q. Correct?

1 A. Yes.

2 Q. And it was August 14th, 2007, I believe, when
3 this tasing happened?

4 A. That's correct.

5 Q. And you've looked through this and does it
6 accurately depict what occurred in relation to Mr. Duren
7 getting tasered?

8 A. Yes, I've seen it before, and I did it.

9 Q. Now, in the case of both Mr. Duren and Mr. Dore,
10 they were not aggressively resisting any officer prior to
11 you making contact with them, correct?

12 A. At one point of contact? What do you mean?

13 Q. Opening the cell door?

14 A. Were they -- no. No.

15 Q. They were just acting, as you've describing,
16 yelling, clogging up the toilets, et cetera?

17 A. Right. And with the potential of what I
18 perceived to harm himself in the form of --

19 Q. Right. But there were no officers in there or
20 no other inmates, so they weren't a threat to --

21 A. Not -- no, not in that isolation cell.

22 Q. Let me finish my question.

23 A. I'm sorry.

24 Q. They weren't a threat to any other inmate or any
25 officer prior to you opening the door and going in,

1 correct?

2 A. Correct.

3 Q. And I believe, in Duren's first taser, you used
4 Tommy Wilbank's taser; is that correct?

5 A. Yes. Let me see that.

6 Q. Sure. It says Tommy's on there.

7 A. Yeah. Make sure I got the right taser download
8 on my report.

9 Q. Sure.

10 A. On the other one, whose did I --

11 Q. Roy.

12 A. -- use?

13 Q. On the other which one?

14 A. On the second use on the Duren fellow.

15 Q. Spares?

16 A. Spare. That was the one up front.

17 Q. I'm assuming that's not Deputy Spare, that's
18 just an extra one?

19 A. Right. That's the one that the auxiliary or
20 part-time deputies would use. It was on 8/14, 1045. I
21 don't see -- well, I'm not seeing the -- all right. I
22 think I've got the report attached to the wrong download.

23 Q. All right.

24 A. Or whoever attached this.

25 Q. Well, I attached them, so let me make sure.

1 A. All right. Look on the back page and there's
2 two downloads for 8/14.

3 Q. Yes, sir.

4 A. One spark test and one actual deployment.

5 Q. Okay.

6 A. And on the front page of the report, it
7 indicates four cycles on the very front page of this
8 report, not the download, the actual taser use report.
9 The very front page.

10 Q. Oh, here?

11 A. The handwritten context on the first little
12 paragraph there.

13 Q. Yes, sir. Four cycles, yes.

14 A. So I think the other download report will
15 probably -- well, it needs to be with that taser report
16 right there.

17 Q. Okay.

18 A. You follow me?

19 Q. Yes. There's another download report?

20 A. Well, I mean, if there's one there. I don't
21 know.

22 Q. Well, fortunately, Jeff Bates stamped these and
23 did it in order for me. And the whole report is Tippah
24 305 to Tippah 311. So it wouldn't be difficult at all to
25 see if there's a Tippah 312 that I need to include. And

1 it's not. That's the end of what we have. The others
2 were picked up with Will Rogers' taser usage. But the
3 last page on Exhibit 9 did indicate at least one taser
4 usage at 1702; is that correct?

5 A. Yes. Now, that's the -- there was one, yes, at
6 that time.

7 Q. And it's 0119?

8 A. Yeah.

9 Q. Is that correct?

10 A. I guess that's right.

11 Q. All right.

12 A. Now, that doesn't go with that report. Are we
13 talking about the same one? Is that the one you're
14 looking at that we were just talking about?

15 Q. It doesn't, does it?

16 A. No, that's what I was --

17 Q. All right. Hold on.

18 A. I can clarified if you need me to.

19 Q. Well, hold on just a second. I understand
20 exactly what you're saying now because there were two --
21 okay. Now, explain to me why it doesn't go with this one.

22 A. I'm sorry.

23 Q. Explain to me what you were going to say.

24 A. Well, if you compare the two -- well, I'm sorry,
25 let me see -- can you just put it between us and let me

1 point out to you?

2 Q. Sure. Yes.

3 A. Right here it says, after the fourth cycle, it
4 says, "Describe the demeanor after the devise was deployed
5 or used until after the fourth cycle."

6 Q. Can I make a suggestion?

7 A. Yeah.

8 Q. If we swap --

9 A. That's what I was wanting to do.

10 Q. See, I'm going to hand you what we have as
11 another exhibit.

12 MR. MULLINS: Let's go off the record.

13 (Off the record.)

14 BY MR. MULLINS:

15 Q. Okay. I think we got the exhibits correct.
16 Exhibit 9, is now correct. It's got the proper taser
17 download with it, and so does Exhibit 10; is that correct?

18 A. Yes.

19 Q. Yes. Okay. Good. Did you have your own taser?

20 A. No.

21 Q. Where is the spare one kept?

22 A. It's kept in the file room next to the
23 secretary's office.

24 Q. Do officers carry any type of personal taser
25 devices that aren't -- you're familiar with stun guns?

1 A. Yes.

2 Q. Do you know if any of your officers carry those
3 stun guns?

4 A. Roy had one.

5 Q. And just for the record, what is that?

6 A. It's a shocking device, pain compliant.

7 Q. It's different than a taser?

8 A. It's different than a taser, no prongs come out.

9 Q. It's just a handheld that you click and hold on
10 to the person?

11 A. Right.

12 Q. Are you aware of any other officers that had
13 those?

14 A. No.

15 Q. How about Will Rogers, specifically?

16 A. I'm not aware.

17 Q. It wasn't prohibited for an officer to carry
18 those?

19 A. No, we didn't prohibit it. Just didn't --

20 Q. Did you -- I'm sorry.

21 A. Just didn't have them except Roy that I'm aware
22 of.

23 Q. Was he trained to use that device?

24 A. No. There was no training available for that.

25 Q. And where did he keep his -- what do you call

1 that? What's the best description for it?

2 A. Stun gun.

3 Q. Is that good? That way we know I'm not talking
4 about a taser.

5 A. Yeah. Stun gun is what comes to mind.

6 Q. Where did he keep his stun gun?

7 A. In his desk. And I think he put it in his car
8 sometimes.

9 Q. So where was his desk located?

10 A. In the sheriff's office. His office was next to
11 mine.

12 Q. In relation to the intoxilyzer room, where was
13 it?

14 A. The jail is attached to the sheriff's office.
15 All right.

16 Q. Is your office in the same area as the jail?

17 A. It is, but it's separate from the jail.

18 Q. Okay.

19 A. The jail has a big iron door, secure.

20 Q. Sure. I got you.

21 A. Got the offices --

22 Q. All right. Did you have any policy with regards
23 to the use of the stun gun?

24 A. No.

25 Q. Were you aware that --

1 A. I do know that Roy was small in stature and an
2 older fellow and smoked cigarettes, not in the best of
3 health. And if someone got on him, he would use that, or
4 could use that, to get them off of him.

5 Q. Had he used it on people before?

6 A. One time that I'm aware of.

7 Q. Did he have to fill out use of force reports
8 every time he used it?

9 A. No.

10 Q. All right. He was in the cell both times when
11 he was tasered, correct?

12 A. Correct.

13 Q. An isolation cell?

14 A. No. Isolation cell one time and a holding cell
15 the next.

16 Q. And you were moving him from one cell to the
17 other; is that correct?

18 A. That's correct.

19 Q. Prior to that time, he was not aggressively
20 resisting any officer or fighting with an inmate, correct?

21 A. He was not, not to my knowledge. I didn't
22 monitor him the whole time he was there. We had to move
23 him for hygiene purposes. He was -- had the whole jail
24 smelled up.

25 Q. You know, crazy people will do stuff like that.

1 A. Well, they can.

2 Q. Maybe they don't need to be belonging in the
3 jail for four days.

4 A. Well, that's a legislative matter, I suppose.

5 Q. I agree. I'm a big proponent against that.
6 That's neither here nor there. Let's see if we can go
7 through. Tell me, if the person is in the back --

8 A. Are we through with Duren?

9 Q. We are.

10 A. Okay. Well --

11 Q. Did you want to add something to it?

12 A. Well, yeah, he was a combative subject.

13 Q. Okay.

14 A. And I think the report reflects that.

15 Q. Sure. And he was also mentally ill?

16 A. He was. I'm not a doctor, again, a
17 psychologist. I don't know that.

18 Q. He was in there on a lunacy writ, correct?

19 A. Yeah. He needed to be evaluated, or had been
20 evaluated, and was being held until he could be placed in
21 a proper facility.

22 Q. Sure.

23 A. And he was aggressive towards me. He grabbed my
24 arm, as the report reflects, and then lunged at me as we
25 were having to move him from one cell to the next.

1 Q. Would you agree that training on handling
2 mentally ill suspects would be appropriate when you have
3 to deal with mentally ill suspects?

4 A. Managing them in a jail environment or any other
5 environment would be the same for any other person is my
6 understanding.

7 Q. You're not aware of any differences?

8 A. I'm aware of, there may be differences in the
9 mental state, but they still pose the same threat.

10 Q. Sure. Well, and this is what I'm talking about,
11 Mr. Vance. When you're dealing with someone who is
12 mentally ill, they may not respond to your verbal commands
13 because they are mentally ill?

14 A. It's possible.

15 Q. And they may not respond because they can't
16 appreciate the difference between right and wrong?

17 A. It's possible. At the same time, you have to
18 issue those same announcements to stop resisting or stay
19 down.

20 Q. But, of course, there may be training out there
21 that you're not aware on how to deal with mentally ill
22 suspects in a different manner, correct?

23 A. It could be.

24 Q. You're just not familiar with them?

25 A. I'm not familiar with them.

1 Q. Okay.

2 A. I never faced that where someone who had been,
3 if they had been, leveled a complaint regarding that.

4 Q. Do what, now?

5 A. No one's ever leveled a complaint regarding
6 that.

7 Q. In this situation with Randy Barnes, you were
8 aware he was tasered?

9 A. Yes.

10 Q. And you were aware he was in the back of the car
11 handcuffed?

12 A. Yes.

13 Q. And I'll let you read this. According to Will
14 Rogers, he went back and opened the door to try to get him
15 to calm down and showed him the taser?

16 A. Yes.

17 Q. I'm going to let you read this. And according
18 to Will he would not calm down, and he started out of the
19 car. And that's when he was tasered. Do you recall that?

20 A. I recall that.

21 Q. And in this situation, what would be the
22 justification for tasering Mr. Barnes while he was
23 handcuffed in the back of the car?

24 A. He was a violent suspect, according to the
25 report here. He was trying to calm him down. He was

1 still violent. He started out of the car, which would
2 indicate a flee to -- in order to resist his arrest.

3 Q. He was handcuffed, correct?

4 A. Right. They can still run.

5 Q. How about closing the door?

6 A. Well, I don't know if his feet -- I wasn't
7 there.

8 Q. Did you ask?

9 A. All I have to do is go by this right here.

10 Q. Did you ask Will?

11 A. I don't recall asking him.

12 Q. You got this use of force report?

13 A. Yes. I saw it. It's got my initials on it.

14 Q. What did Mr. Barnes indicated had occurred
15 according to your investigation?

16 A. All I'm going on is the report I have here.

17 Q. You went to talk to Mr. Barnes about what
18 happened, didn't you?

19 A. No, I don't recall having talked to him.

20 Q. Well, how would you know his side of the story
21 without talking with him?

22 A. I wouldn't unless he came forward with a
23 complaint.

24 Q. Well, isn't the use of force report something
25 you investigated, whether it was done properly or not?

1 irons.

2 A. (Witness examining document.)

3 Q. And you see where Mr. Mathis indicated in the
4 summary of the case where he said he asked Mr. Rogers if
5 he could remove the leg irons, and then Rogers told him
6 they could remove them.

7 A. If he wasn't causing any trouble?

8 Q. Yes, sir. You saw that?

9 A. I saw that.

10 MR. MULLINS: Let's go ahead and get that
11 marked as Exhibit 12.

12 (Exhibit 12 marked for identification and
13 attached hereto.)

14 BY MR. MULLINS:

15 Q. Hopefully lastly, I want to talk to you real
16 quick about Angie Polly Cox. Are you familiar with the
17 taserings that were done on Ms. Cox?

18 A. I saw the report.

19 Q. And Ms. Cox was in the isolation cell, correct,
20 according to the report?

21 A. According to the report. Let me review it if I
22 need to if you're going to go down there, go down that
23 path. (Examining document.) All right.

24 Q. Okay. And does that indicate that this lady,
25 Angie Cox, was in the isolation cell?

1 A. Let me have another look. I don't think I
2 looked at -- is there an accompanying report?

3 Q. That's all we have on this one.

4 A. Okay.

5 Q. And Will's testimony, if you recall that from
6 yesterday -- and if you don't, you don't.

7 A. Well, I remember him talking about it. I
8 remember y'all talking about it. It says, "She was
9 pushed" -- "she pushed the jailer and attempted to assault
10 the jailer. She was put into isolation and shown the
11 taser multiple times." I don't know if she was in the
12 isolation cell or put in the isolation cell.

13 Q. Again, but this --

14 A. It just seemed to me that she was in a cell --

15 Q. And I'm not --

16 A. -- then put into an isolation cell.

17 Q. Based on Will's testimony, she was in an
18 isolation cell acting up. He went to the isolation cell,
19 opened the door, she came, apparently, towards him, and
20 that's when he shot her in the stomach according to him?

21 A. Is that what he said yesterday?

22 Q. Pretty much, yes, sir.

23 A. Okay. I don't remember that.

24 Q. Well, let me ask you this: Did you ever
25 interview Ms. Cox as to what happened?

1 A. I did not. I know Polly.

2 Q. How do you know Ms. Cox?

3 A. Angie -- Polly has a long history of drug use,
4 cocaine use, alcohol abuse, and combative behavior. She's
5 strong as some of the officers.

6 Q. Does she have a history of mental illness as
7 well?

8 A. I'm not aware of that. She may have been
9 diagnosed with something, but I don't recall. I don't
10 recall. I think she has been sent somewhere to get
11 evaluated some time or another, and I don't recall where
12 or when. Now, I believe that report indicates that she
13 was attempting to commit suicide. Am I right?

14 Q. Will's report?

15 A. Taser report right there.

16 Q. It says "suicidal."

17 A. Well --

18 Q. Go ahead.

19 A. -- let's see here. She tried to hang herself
20 with her underwear. And she was totally noncompliant,
21 pushed the jailer, an attempted to assault the jailer.

22 Q. Okay. And you know Ms. Cox?

23 A. I know of her, and I have seen her. And
24 she's -- I've seen her in the jail.

25 Q. And were you aware she was interviewed by the

1 FBI about this?

2 A. I was not.

3 Q. And that her version, as you can imagine, is
4 different than Will's version as he made in the report?

5 A. May be.

6 Q. And for your benefit, I will give you this
7 document and let you look at it so you can see what she
8 said.

9 A. I have read what she says happened. Whether
10 that's a truthful account or not, it would be suspected.

11 Q. Okay. Why would that be?

12 A. Polly -- knowing her, I would believe would
13 fabricate some of that.

14 Q. Not to -- but we heard Mr. Will Rogers yesterday
15 say he fabricated his police report, and admit to that.

16 A. He did admit to it. He pled to that.

17 Q. But you never --

18 A. I wouldn't -- he pled to that report right
19 there. Not to all of the rest of his reports.

20 Q. But that does call him under suspicion on his
21 other reports, wouldn't you agree?

22 A. It could.

23 MR. MULLINS: Let's go ahead and get

24 Ms. Cox's summary marked as whatever exhibit we're

25 on. 13?

1 (Exhibit 13 marked for identification and
2 attached hereto.)

3 BY MR. MULLINS:

4 Q. But you didn't identify or discuss or talk with
5 anybody about Ms. Cox's tasering, correct?

6 A. No.

7 Q. Did you discuss it with Will?

8 A. No.

9 Q. None of the jailers?

10 A. No.

11 Q. And certainly not Ms. Cox, correct?

12 A. I did not.

13 Q. Did you ever look at the download of the taser
14 on Ms. Cox's tasering?

15 A. I haven't seen that.

16 Q. I haven't either. Real quick, you mentioned a
17 couple lawsuits that you were involved in, in
18 interrogatory No. 12. Do you recall those lawsuits?

19 A. Yes.

20 Q. What are those lawsuits?

21 A. I think there's one from Carla Bell.

22 Q. What does that involve, Mr. Vance?

23 A. Do we have that report from Shawn or -- I wrote
24 a letter, and it was -- what do you call it? What's the
25 word?

1 Timber Hills Mental Health, or were you another party that
2 wasn't included?

3 MR. ALLEN: I think that was an et al.

4 MR. MULLINS: I got you.

5 BY MR. MULLINS:

6 Q. Were you sued as the sheriff of Tippah County?

7 A. I was the sheriff then.

8 Q. All right. So she had made some type of --

9 A. False allegations.

10 Q. About --

11 A. Against the way I handled her, and I never had
12 arrested her.

13 Q. Okay. Okay. And then the other one is
14 Vuncannon versus United States of America.

15 A. I can't remember his first name -- Vuncannon.

16 Q. What is that one about?

17 A. That was where he was injured when he was out as
18 a trustee doing some work.

19 Q. Okay. All right. And this is something I
20 should have covered just a second ago. And I promise I'm
21 about ready to let you go. On Exhibits 9 and 10, which
22 were the Duren tasing --

23 A. Uh-huh.

24 Q. On the taser downloads -- and I'm going to flip
25 to both of them so we can look at it simultaneous. We

1 know that at the bottom of the page of the taser download
2 is your tasering him.

3 A. Right.

4 Q. This is 8/14/2007. But you can look in here
5 with me, and there's several others ranging from two
6 seconds -- I know the one-second ones are probably spark
7 tests, correct?

8 A. I presume so, yes.

9 Q. But there were several other cycles of five
10 seconds on 11/05/06; is that correct?

11 A. That's correct.

12 Q. And the next page there's other cycles of two
13 ranging to five on 11/19/06. Again, on the next page,
14 there's several five and three-second cycles, four-second
15 on the next page. Indicates that the taser was being
16 activated for several seconds, which is consistent with it
17 being used on somebody in some way, correct?

18 A. Yes, could be. Not sure that it was.

19 Q. Not sure that it wasn't, correct?

20 A. Correct.

21 Q. And this was, I believe -- the one we looked at
22 just then on Exhibit 9 was the spare, which would have
23 been the one used primarily by reserve deputies, correct?

24 A. Right.

25 Q. But, again, if it was used on a person, it would

1 be required to have a use of force report?

2 A. That's right.

3 Q. And, again, and not to belabor this, but looking
4 on Exhibit 10 looking at the download data that we have on
5 this taser -- and this is Tommy's. What's Tommy's last
6 name?

7 A. Garrett.

8 Q. Okay. Again, we've identified the use that was
9 done that day on here somewhere.

10 A. I think it was on the last page.

11 Q. You're right. The very last page, 0119. But as
12 you look through Tommy's data, there's several five-second
13 usages on the first page, correct?

14 A. Correct.

15 Q. And on the next page, there's several two,
16 three, one eight-second use cycle and continuing on to the
17 third page, there's several four and three-second cycles.
18 Next to the last page, there's several -- numerous, one,
19 two, three, four, five, seven or so five-second cycles?

20 A. Yes.

21 Q. Again, it would be consistent with the fact that
22 the taser was being used for that period of time. We
23 don't know if it was on a person or what?

24 A. That's correct. And I don't know if that was
25 during the training exercise or not either. There was

1 some training exercises that took place.

2 Q. Okay. For recordkeeping sake, would it be
3 something that would -- so we wouldn't have this type of
4 confusion that you and I are having right now, that when
5 it's done for training purposes, that you would have some
6 type of form filled out to indicate, "Hey, we shot this
7 off on this date. It was not" -- "we weren't shooting
8 Polly Cox or Randy Barnes, we were shooting" --

9 A. Yeah.

10 Q. And for training purposes? Do you have
11 something --

12 A. I think it would be consistent with the date of
13 the training that we could look back on these downloads
14 and see.

15 Q. Could you do that for me so I can -- if it's
16 possible? And I guess I'm requesting that that be done so
17 we can ascertain whether these downloads that we're
18 seeing, several seconds, up to ten seconds, were done on
19 training or they were unaccounted for. Could you do that?

20 MR. MULLINS: Jeff, I'm asking it be done.

21 MR. ALLEN: Yeah. If we've got access.

22 A. If I've got that information.

23 MR. MULLINS: Well, the county should because
24 I'm assuming -- and you represent the county.

25 MR. ALLEN: I understand. But there's been

1 an administration change and things --

2 MR. MULLINS: Let me know. If we have to go
3 and get the new sheriff in, we will bring him in
4 and see if he can provide that if that's what we
5 need to do.

6 MR. ALLEN: We've been in contact with him.

7 MR. MULLINS: Well, let me know. And I mean
8 that. Because I know Brandon's limited on what he
9 can get, and I appreciate what you've brought so
10 far.

11 BY MR. MULLINS:

12 Q. Last thing. And this will hopefully be quick.
13 John Jenkins.

14 A. May I interject?

15 Q. Sure. Absolutely.

16 A. Just occurred to me. We have sought -- looked
17 for taser reports that have been filed --

18 Q. Yes, sir, you have.

19 A. -- that may be consistent with that use.

20 Q. That's what I'm asking. Tell me what -- and I
21 don't want to know any attorney/client privilege, but
22 you've been requested by your attorney to retrieve use of
23 force reports consistent with taser use, correct?

24 A. Yes.

25 Q. What have you done in that regard?

1 A. What efforts have I made?

2 Q. Yes, sir.

3 A. I've contacted his sheriff and asked him to get
4 his staff to look. Even my former secretary went with his
5 secretary and looked.

6 Q. And the new sheriff is Karl Gaillard?

7 A. Karl Gaillard.

8 Q. And has he been helpful in this regard?

9 A. Yes.

10 Q. Okay. So could you check with him on these
11 specific download datas that we have to see if he has use
12 of force reports consistent with that?

13 A. I have asked for them, any of them. Have not
14 gotten them.

15 Q. So could you check with him on these?

16 A. On these right here?

17 Q. Yes. The ones that we know the taser has been
18 used for several seconds on certain dates, to see if there
19 was training going on.

20 A. Okay. That was under my administration, and
21 he's not been able to provide any data with respect to use
22 of force reports relative to those dates and those times
23 of activation. That's why I'm -- you know, I --

24 Q. Well, you mentioned the training. Could you
25 find out whether there was training going on on these

1 days? Is there anything --

2 A. Well, it may -- those right there -- those dates
3 are -- if I could refer to them again because the training
4 would have been largely on the same day or closely there
5 to.

6 Q. Sure.

7 A. And I'm saying --

8 Q. Sure. That's why I wanted you to --

9 A. I'm saying that perhaps deployments, if they
10 were actually deployed in the line of duty, that the
11 reports that were filed, that are not accessible, would be
12 consistent with those downloads.

13 Q. Right. And it very well may be. Several dates,
14 on October 14th and October 18th, but would there be
15 something to indicate whether training was going on?

16 A. Maybe there was a day of training. I can try to
17 find out.

18 Q. That's what I'm requesting, to see if I can
19 figure out what's going on here. John Jenkins came to see
20 you some time after this incident, correct?

21 A. He did.

22 Q. Are these your handwritten notes?

23 A. It is.

24 Q. You write about as bad as me.

25 A. Thanks.